

## **REMARKS**

### Summary of Office Action

Claims 1-19 were pending in the above-identified patent application.

Claims 1-5, 7-12 and 18 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1, 6 and 18 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 1-10 and 12-16 have been rejected under 35 U.S.C. § 103(a) as being obvious from Al Bandar et al. U.S. Patent Application Publication No. 2004/0181145 ("Al Bandar") in view of Greenfield "It's Illegal to Lie to Stockbrokers, but Not to Employees; [Metro Final Edition]", The Sacramento Bee. Sacramento, California: July 6, 1998, pg. B.5 ("Greenfield").

Claims 11 and 17 have been rejected under 35 U.S.C. § 103(a) as being obvious from Al Bandar in view of Greenfield in further view of Johnson, JR. U.S. Patent Application Publication No. 2002/0062089 ("Johnson").

Claims 18 and 19 have been rejected under 35 U.S.C. § 103(a) as being obvious from Al Bandar in view of Greenfield in further view of Gevins et al. U.S. Patent Application Publication No. 2003/0013981 ("Gevins").

### Telephonic Interview Summary

On May 19, 2011, a telephonic interview took place between the Examiner and the undersigned. The undersigned wishes to thank the Examiner for the courtesies extended during the telephonic interview.

During the telephonic interview, undersigned and the Examiner discussed the 35 U.S.C. § 103 rejection of

independent claim 1. In particular, the Examiner and undersigned discussed the Examiner's interpretation of the limitations recited by claim 1. Arguments in support of applicant's position are presented below.

#### Summary of Applicant's Reply

Applicant has amended independent claims 1, 6 and 18 to more particularly define the claimed invention. In addition, claims 8, 16 and 17 have been canceled without prejudice. No new matter has been added and the amendments are fully supported by the originally-filed application.

The Examiner's rejections are respectfully traversed.

#### Applicant's Reply to the 35 U.S.C. § 101 Rejection

The Examiner has rejected claims 1-5, 7-12 and 18 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Examiner contends that claim 1 is directed to an abstract idea insofar as "no transformation is recited" and "the recitation of a machine is only tangentially related to the performance of the steps." Office Action, page 2. Applicant respectfully disagrees.

Without taking a position of the transformation prong of the Examiner's rejection, applicant respectfully submits that claim 1 is sufficiently tied to a machine to qualify as statutory subject matter under 35 U.S.C. § 101. Specifically, claim 1 recites that the processor is used to execute a detection process that analyzes a record of a corporate disclosure "to detect a plurality of possible deceptive behaviors within the corporate disclosure." Contrary to the Examiner's assertion, this feature is not merely "a data gathering step for the heart of the invention," Office Action, pp. 2-3, but is very much part

of the invention in its own right. There are clearly two major components to the deception detection process defined in claim 1, and it is upon the combination of these features that patentability rests.

First, claim 1 recites that possible deceptive behaviors are automatically detected by the processor. This feature, for example, facilitates quick, efficient, and consistent review of disclosures for possible deception. Only then does the reviewer determine whether or not a cluster of deceptive behaviors exists. This tiered approach to detecting deception in a corporate disclosure thus harnesses the uniquely advantageous features of automatic detection and couples it with a desirable measure of manual control and input.

Furthermore, applicant again notes that the Examiner must "[analyze] the claim as a whole to evaluate whether a method claim is directed to an abstract idea." See 101 Method Eligibility Quick Reference Sheet, page 1, included with the "Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of *Bilski v. Kappos*," July 27, 2010. Applicant respectfully submits that the claim, analyzed as a whole, is sufficiently tied to a machine to qualify as statutory subject matter under 35 U.S.C. § 101.

For at least the foregoing reasons, the Examiner's rejection under 35 U.S.C. § 101 should be withdrawn.

#### Applicant's Reply to the 35 U.S.C. § 112 Rejection

The Examiner has rejected claims 1, 6 and 18 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner refers to

several terms in the claims that the Examiner contends are unclear.

Without conceding the issue of patentability, applicant has amended claims 1, 6 and 18 to more particularly define the claimed invention. Applicant respectfully submits that these amendments further clarify the terms alleged by the Examiner to be unclear. The Examiner's rejection under 35 U.S.C. § 112 should therefore be withdrawn.

#### Applicant's Reply to the 35 U.S.C. § 103 Rejection

The Examiner contends that Al Bandar shows each and every feature of applicant's independent claims 1 and 6 aside from "a corporate disclosure." See Office Action, pp. 4-5. Applicant respectfully submits, however, that Al Bandar does not show or suggest at least the claimed feature of determining the presence of a cluster of deceptive behaviors responsive to a stimulus.

Applicant's claims define - with particularity - the composition of a cluster of deceptive behaviors. In the Reply to Office Action of November 9, 2010, applicant painstakingly demonstrated the differences between the claimed cluster of deceptive behaviors and the disclosure of Al Bandar. Yet, the Examiner's rejection fails to address applicant's argument on the merits. Instead, the Examiner argues that "the only positively claimed limitation regarding the cluster is to review the behaviors to determine the presence of a cluster." Office Action, page 10. Since "[n]o step is recited where a cluster is identified that positively claims the various behaviors," *Id.*, Al Bandar is enough, according to the Examiner, to cover the limitations recited in claims 1 and 6.

In the interest of expediting prosecution of this application, and without conceding the issue of

patentability, applicant has amended the claims to positively claim the various behaviors included (and not included) in the cluster of deceptive behaviors. Amended claim 1 now recites that first, second, and third behaviors (each meticulously defined in the claims) are identified, and that the cluster includes "the first behavior, the second behavior, and not the third behavior," per the Examiner's suggested terminology. See Office Action, page 10. As such, a cluster of deceptive behaviors, as defined in applicant's claims, includes (i) "a first behavior . . . that begins during a stimulus time interval determined by the stimulus onset and a predetermined period of time after the stimulus termination," (ii) "a second behavior . . . that begins after the stimulus time interval and before the end of a prior behavior included in the cluster of deceptive behaviors," and (iii) not "a third behavior . . . that begins after the stimulus time interval and after the end of all prior behaviors included in the cluster of deceptive behaviors."

Applicant refers the Examiner to the arguments made in the Reply to Office Action of November 9, 2010 discussing the differences between the claimed cluster of deceptive behaviors and Al Bandar's "grouped channel data." Applicant respectfully requests that the Examiner reconsider applicant's arguments that Al Bandar does not show or suggest (A) "a stimulus time interval determined by the stimulus onset and a predetermined period of time after the stimulus termination," (B) a cluster of deceptive behaviors that includes a second behavior "that begins after the stimulus time interval and before the end of a prior behavior included in the cluster of deceptive behaviors," and (C) a cluster of deceptive behaviors that excludes a third behavior "that begins after the stimulus time interval and after the end of all prior behaviors included in the cluster of deceptive behaviors." Each of

these arguments was discussed at length in the Reply to Office Action of November 9, 2010 and applicant hereby resubmits the same in response to the Examiner's rejection.

For at least the reasons listed above and in the Reply to Office Action of November 9, 2010, Al Bandar does not show or suggest all the elements and features of applicant's claims 1 and 6. In addition, Greenfield does not make up for any of these deficiencies in Al Bandar. Accordingly, the rejection of claims 1 and 6 should be withdrawn. Furthermore, dependent claims 2-5, 7, 9-12 and 18 are allowable for at least the reason that they depend from allowable independent claim 1. Dependent claims 13-15 and 19 are allowable for at least the reason that they depend from allowable independent claim 6.

#### Conclusion

For at least the reasons set forth above, applicant respectfully submits that this application, as amended, is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,

/David R. Wildman/

---

David R. Wildman  
Registration No. 66,878  
Agent for Applicant  
ROPES & GRAY LLP  
Customer No. 28120  
Prudential Tower  
800 Boylston Street  
Boston, MA 02199-3600